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Unfair Labor Practice

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The Illinois Public Labor Relations Act and Rules and Regulations concerning unfair labor practice charges detail the rights protected by the Act and the procedures to be followed when filing such a charge.

This brochure contains answers to the most commonly asked questions concerning these procedures.

Q. What is an unfair labor practice?

A. An unfair labor practice is a violation of the Illinois Public Labor Relations Act ("Act"); a law which grants certain rights to public employees. Basically, a public employer or a labor organization is guilty of an unfair labor practice if it violates the rights granted public employees under the Act.

Q. What employee rights are protected by the Act?

A. 1) The right to form, join, or assist labor organizations without fear of penalty or reprisal;

2) the right to bargain collectively with their employer through representatives of their own choosing;

3) the right to engage in other lawful, concerted activities for the purpose of collective bargaining; and

4) the right to refrain from any and all of these activities.

Q. When does a public employer commit an unfair labor practice?

A. A public employer commits an unfair labor practice whenever it is found gulity of any one of the following:

1) Interfering with, restraining or coercing employees in the exercise of their rights granted in the Act; or dominating or interfering with a labor organization;

2) discriminating against employees in order to encourage or discourage membership in/or support for a labor organization;

3) discriminating against an employee who has signed or filed an affidavit, petition or charge with the Board, or who has provided any information or testimony pursuant to the Act;

4) refusing to bargain in good faith with the exclusive bargaining representative; and

5) violating any rule or regulation of the Board concerning the conduct of representation elections.

Q. When does a labor organization commit an unfair labor practice?

A. A labor organization commits an unfair labor practice whenever it is found guilty of any one of the following:

1) Restraining or coercing employees in the exercise of rights granted in the Act;

2) restraining or coercing a public employer in the selection of the collective bargaining representative;

3) attempting to cause an employer to discriminate against an employee, thereby causing the employer to commit an unfair labor practice;

4) refusing to bargain in good faith, if it is the exclusive bargaining representative;

5) violating any rule or regulation of the Board concerning the conduct of representation elections;

6) discriminating against an employee who has signed or filed an affidavit, petition or charge with the Board, or who has provided any information for or testified at a Board hearing; and

7) **unlawfully** picketing a public employer.

Q. Is there a time limit on the filing of an unfair labor practice charge?

A. Yes, a charge must be filed within 6 months of the date the alleged violation occurred.

Q. Who can file unfair labor practice charges with the Board?

A. A labor organization, an employee, or a public employer can file these charges with the Board.

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Q. Who bears the responsibility for proving that an unfair labor practice has been committed?

A. The person or entity filing the charge has this burden.

Q. Who represents an individual employee who files a charge?

A. Where an individual is filing a charge (not a union filing a charge on the individual's behalf), the individual must represent himself/herself or hire an attorney. If the individual meets certain income eligibility requirements, the Board may appoint and pay for an attorney for the individual.

Q. What happens when a charge is filed with the Board?

A. Upon receipt by the Board, the charge is assigned to a Board Agent (Investigator) who will investigate the basis of the charge. Typically, the Investigator will call the party filing the charge (Charging Party) and, if necessary, the person or entity against whom the charge is filed (the Respondent) to learn more about the circumstances surrounding the charge. The Investigator may even hold a meeting with the parties to see if they can reach some informal resolution. If the investigation reveals the existence of a dispositive issue of law or fact, and the parties don't resolve the matter themselves during the investigation process, the

Executive Director will issue a Complaint setting the matter for hearing before a Hearing Officer. If the investigation reveals that there are no such issues, a Dismissal is issued by the Executive Director.

Q. What happens if an unfair labor practice complaint is issued by the Executive Director?

A. A hearing will be held unless the parties resolve the matter. The issuance of a Complaint means that there is a dispositive issue of fact or law that the Board must resolve and that a hearing is necessary to resolve it. The Complaint sets forth the facts and allegations as discovered in the investigation, but makes absolutely no conclusion regarding the guilt or innocence of the party charged.

Q. What happens in the hearing process?

A. The hearing, which is held in either our Springfield or Chicago office, is a *de novo* hearing. This means that the Hearing Officer has no knowledge of the circumstances surrounding the charge, except that he has the Complaint and the Respondent's Answer to the Complaint. During the hearing, the parties are able to question witnesses, present relevant written evidence, argue orally and file written briefs. The party filing the charge has the burden of provid-

ing sufficient evidence and argument to prove that an unfair labor practice has been committed. The Hearing Officer will then prepare a Hearing Officer's Recommended Decision based on the facts presented at the hearing, the briefs of the parties, and any appropriate legal standards.

Q. Do the parties have appeal rights to the Hearing Officer's Recommended Decision or the Executive Director's Dismissal?

A. Parties may appeal these to the Board by filing "Exceptions" to the Hearing Officer's Recommended Decision or the Executive Director's Dismissal of an unfair labor practice charge within 30 days of the receipt of the decision or dismissal. Briefs will need to be filed which state the basis for the party's objection. These exceptions must contain sufficient detail so as to clearly present the party's position. The Board will then issue its decision based on the issues raised in Exceptions to the Hearing Officer's Recommendation by taking into account the entire record of the hearing. The Board's decision is directly appealable to Appellate Court. When the Board reviews Executive Director Dismissals, it does so to determine whether the Executive Director was presented with a dispositive issue of fact or law that requires a hearing. If the Board so determines, it will order a hearing.

Q. What remedies may the Board order in an unfair labor practice case?

A. The Board can order the party who committed the violation to stop committing such unfair labor practice. Further, it can order the Respondent to take whatever affirmative action is necessary to "effectuate the purposes of the Act." This may mean the reinstatement of employees, with or without back pay. It may mean ordering the party to bargain. In exceptional circumstances, it may even mean the payment of the charging party's attorney's fees. Often, an employer or a labor organization is ordered to post a document which explains the violation and the employees' rights.

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